devisees and legatees. The Act of Congress of 1916 provided for an "Estate Tax" to be levied on the net estate transferred upon death. (39 STAT. 756, c. 463; 39 STAT. 1000; 40 STAT. 300.) *Held*, that it is chargeable entirely against the residue. *Plunkett* v. *Old Colony Trust Co.*, 124 N. E. 265 (Mass.).

The executor charged the federal estate tax *pro rata* among three legatees. This account was affirmed by the Surrogate, reversed by the Appellate Division, and on appeal, *held*, that it is chargeable entirely against the residue. *In re Hamlin*, 124 N. E. 4 (N. Y.).

The Massachusetts and the New York courts both reach the same conclusions for exactly the same reasons. The difference between an estate tax and a legacy tax is well recognized. See *Minot* v. *Winthrop*, 162 Mass. 113, 124, 38 N. E. 512, 516. A legacy tax is a tax upon the right to receive property by will as distinguished from a tax upon the right to devise property, and so is chargeable upon the individual legacy. An estate tax is one imposed upon the net estate transferred by death and not upon each individual succession resulting from death. *In re Roebling's Estate*, 89 N. J. Eq. 163, 104 Atl. 295. Hence it is chargeable upon the estate and therefore upon the residuary fund. At the time Congress enacted the statutes under consideration legacy taxes were common in the states. See RANDOLPH, UNITED STATES INHERITANCE AND TRANSFER TAXES, 1917, p. 54. Previous federal legislation, the Act of 1898, imposed a legacy tax. See 30 STAT. AT L. 464. This act had been held constitutional. *Knowlton* v. *Moore*, 178 U. S. 41. If Congress had intended a legacy tax it would have followed the language of that act. Moreover, the intention of Congress to enact an estate tax is evident from the records of legislative proceedings in connection with the passage of the law. See Report No. 922, 64th Congress, 1st session, 5. The instant decisions, of importance practically, seem certain to be followed.

TAXATION — PROPERTY SUBJECT TO TAXATION — GOOD WILL OF A BUSINESS. — To ascertain the value of the intangible property in Arizona belonging to a foreign corporation, the board of equalization capitalized the net profits realized by the corporation from Arizona sales in 1917 at 25 per cent, and deducted from the result the value of the corporation's tangible property within the state. This valuation was distributed among the counties of the state in the proportion of their several contributions to the gross sales of the corporation, with instructions to the county authorities to enter on the assessment rolls the words: "Tangible and intangible valuation of property above enumerated based on excessive earnings." Arizona statutes provide that all property of whatsoever kind or nature is subject to taxation. (1913 ARIZONA REV. STAT., Title 49, c. 4, §§ 4846, 4847.) *Held*, that the assessment was unwarranted. *Standard Oil Co.* v. *Howe*, 257 Fed. 481 (Circ. Ct. App.).

Although a tax on excessive earnings was not authorized by the statutes of Arizona, the court might well have confirmed the assessment, on the ground that it related to the good will of the plaintiff's business. The court failed to regard the result produced, but considered simply the method used. See *Great Northern Ry. Co.* v. *Okanogan County*, 223 Fed. 198, 201. Statutes authorizing a tax on foreign corporations doing business in interstate commerce in terms of gross receipts have often been held constitutional, being construed as substantially imposing a tax either on the property of the corporation within the state or on the privilege of doing business there, the value of which is measured by the gross earnings. *State* v. *U. S. Express Co.*, 114 Minn. 346, 131 N. W. 489; *Maine* v. *Grand Trunk Ry.*, 142 U. S. 217. See *McHenry* v. *Alford*, 168 U. S. 651, 671. That business good-will is a form of property is well recognized to-day. *People* v. *Roberts*, 159 N. Y. 70, 53 N. E. 685. See 16 HARV. L. REV. 135. And it may be taxed at the place of business. *Adams Express Co.* v. *Ohio State Auditor*, 166 U. S. 185. See Joseph H. Beale, "Jurisdiction to

Tax," 32 HARV. L. REV. 587, 601. Hence it would seem to be subject to taxation under the Arizona statutes. Though the reasoning in the principal case seems erroneous, it should be noticed that the question of fact as to the value of the good-will could have been more accurately determined by the equalization board by taking as a basis of computation the average profits over a series of years, rather than the net profits of a single year.

TORTS — DAMAGES — NERVOUS SHOCK FROM FRIGHT CAUSED BY SPOKEN WORDS. — The defendant, a private detective, in order to induce the plaintiff to show him some letters, said to her: "I am from Scotland Yard. You are the woman we are after. You have been corresponding with a German spy." Because of the fright induced by these words, the plaintiff became seriously ill. The jury found that these threats and false statements were made for the purpose of frightening the plaintiff. *Held*, that the plaintiff could recover. *Janvier* v. *Sweeney and Barker*, [1919] 2 K. B. 316.

Upon the question of a recovery for nervous illness induced by fright without physical impact the authorities are still at variance. See 28 HARV. L. REV. 359–363; 15 HARV. L. REV. 304. For a variety of reasons, most jurisdictions deny a recovery where the action is based upon negligence. *Nelson* v. *Crawford*, 122 Mich. 466, 81 N. W. 335; *Spade* v. *Lynn R. Co.*, 168 Mass. 285, 47 N. E. 88; *Mitchell* v. *Rochester Ry.*, 151 N. Y. 107, 45 N. E. 354. *Contra*, *Dulieu* v. *White*, [1901] 2 K. B. 669. The same is true where the negligence consists of spoken words. *Braun* v. *Craven*, 175 Ill. 401, 51 N. E. 657. But even the courts that allow no recovery in negligence cases say that there would clearly be a recovery where the act was a wilful wrong. *Jeppsen* v. *Jensen*, 47 Utah, 536, 541, 155 Pac. 429, 431; *Davidson* v. *Lee*, 139 S. W. 904, 907 (Tex. Civ. App.); *Spade* v. *Lynn R. Co.*, *supra*, 290, 89. There is decisive authority that where the words or the act alone constitute an admitted tort, the defendant is liable for any nervous illness resulting proximately. *Lonergan* v. *Small*, 81 Kan. 48, 105 Pac. 27 (assault); *Engle* v. *Simmons*, 148 Ala. 92, 41 So. 1023 (trespass); *Garrison* v. *Sun Pub. Ass'n*, 207 N. Y. 1, 100 N. E. 430 (slander). Threats of bodily harm sent by letter and causing illness by reason of apprehension of violence have also been held to be ground for an action. *Houston* v. *Woolley*, 37 Mo. App. 15; *Grimes* v. *Gates*, 47 Vt. 594. But, in spite of numerous dicta, there are very few square decisions in favor of recovery for the consequences of fright induced by spoken words, where the words do not otherwise constitute an admitted tort. The principal case is therefore to be regarded as an important one in reaffirming the right of recovery established in an earlier English case. *Wilkinson* v. *Downton*, [1897] 2 Q. B. 57.

TRUSTS — POSTPONEMENT OF ENJOYMENT OF THE INTEREST OF A SOLE *CESTUI QUE TRUST* — MERGER OF LEGAL AND EQUITABLE ESTATES. — The testator devised certain realty to his wife in trust for herself for ten years and then to herself absolutely. He expressed a desire that the estate should remain intact during the trust period, but placed no restrictions on alienation and gave his wife the power in her will to designate a successor in the trusteeship. Accordingly she empowered her grandson to convey the land in fee. The latter, after the death of the testator's widow but before the expiration of the ten years, contracted to convey the land. *Held*, that he could pass good title. *Odom* v. *Morgan*, 99 S. E. (N. C.) 195.

Generally, if both the legal and equitable title to real estate held in trust become vested in the same person, there will be a merger resulting in absolute ownership and the consequent termination of the trust. *Swisher* v. *Swisher*, 157 Iowa, 55, 137 N. W. 1076. See *Woodward* v. *James*, 115 N. Y. 346, 357, 22 N. E. 150, 152. See 1 PERRY ON TRUSTS, 6 ed., 347. But this rule does not operate mechanically; where termination of the trust might injure the interests